

REMARKS

Claims 1-45 are pending. Claims 46-50 have been canceled and claim 1 has been amended in response to the Examiner's restriction and to more clearly define the claimed subject matter. Applicants preserve the right to present and canceled or withdrawn subject matter in one or more continuation or divisional applications.

The Examiner has imposed a restriction between Group I (claims 1-45 to methods) and Group II (claims 46-50, drawn to kits for inducing apoptosis). Applicants elect to pursue claims falling into group I, drawn to methods of selectively inhibiting proliferation or growth of malignant cells by administering a calcium-activated potassium channel activator. Claims 46-50 have been canceled for the Examiner's convenience, however Applicants preserve the right to pursue and canceled or withdrawn subject matter in one or more continuation or divisional applications.

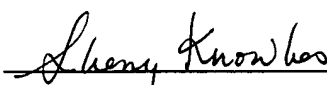
The Examiner has imposed a further restrictions between the calcium activated potassium channel activators listed in claims 3-6, 13-16, 21-24 and 34-37, namely NS-1619, bradykinin or a bradykinin analog, triethylamine, a soluble guanylyl cyclase activator, YC-1, or a guanylyl cyclase activating protein. Applicants traverse this restriction under 37 C.F.R. § 1.143, however provisionally elect compound NS-1619 in response to the restriction. Applicants traverse on the grounds that the claims are all based on the unexpected discovery that KCa channel activators can selectively induce apoptosis in malignant cells at concentrations at which normal cells are insensitive to such an effect. The invention therefore does not rest on which specific KCa channel activator is utilized, and the listed compounds are thus not distinct from each other. The KCa activators all fit into the generic claim 1. The Examiner is asked to reconsider restriction between the listed compounds.

The Examiner has also imposed a species election on the tumors recited in claim 19. Applicants elect glioma as the species. All pending claims read on the elected species. Applicants note that upon allowance of a generic claim, claims to additional species depending from, or including all the limitations of, the generic claim will be reconsidered.

U.S.S.N.: 09/976,961
Amendment dated October 28, 2004
Response Office Action of June 28, 2004

Applicants enclose a Petition for a Three Month Extension of Time to reply, to and including, October 28, 2004, and a check in the amount of \$490.00 for the associated fee. Although Applicants believe the amount of the fee is correct, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account 11-0980.

Respectfully submitted,

 *w/express permission
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